

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In Re: RFC and ResCap Liquidating Trust
Litigation

Court File No. 13-cv-3451 (SRN/HB)

This document relates to:

ORDER

ResCap Liquidating Trust v. Home Loan
Center, Inc., No. 14-cv-1716

Before the Court is a dispute regarding proposed discovery related to ResCap Liquidating Trust's ("ResCap's") pending motion for attorneys' fees and costs. (*See* Pl.'s Jan. 28, 2019 Letter [Doc. No. 4966]; Def.'s Jan. 30, 2019 Letter [Doc. No. 4970].) Having reviewed the parties' submissions, the Court issues the following rulings:

1. There appears to be some uncertainty in the law in the Eighth Circuit and Minnesota as to whether courts should infer a "reasonableness" standard in exercising their discretion to award attorneys' fees and costs, despite contractual language that permits the recovery of "all" fees and costs and makes no mention of reasonableness. The Court will defer ruling on this issue at this time, until it has the benefit of full briefing from both sides. For purposes of this discovery dispute, the Court will assume that any award of fees must be reasonable.
2. The Court will permit HLC to submit an expert declaration in support of its position on the appropriate fee award in this case. ResCap is entitled to do the same. The Court's understanding is that HLC's expert will be deposed on February 13, 2019.

3. As for the dispute regarding the appropriateness of certain redactions, no later than February 11, 2019, HLC shall identify a reasonable number of such disputed redactions. No later than February 13, 2019, ResCap shall submit the corresponding unredacted entries to the Court for *in camera* review. In light of the fact that these are redacted billing entries, by definition filled with attorney client privilege and work product privilege material, no privilege log is required. The specific names of witnesses identified in the billing records, associated with attorney work, need not be identified.
4. At this point in time, HLC will not be ordered to produce a summary of its fees and costs incurred before July 2018. However, if it becomes apparent to the Court that issues raised in the briefing by HLC challenging ResCap's fees prior to July 2018 cannot be fairly resolved without such discovery, the Court will entertain a motion for such discovery at that time.

SO ORDERED.

BY THE COURT:

Dated: February 4, 2019

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge